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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870

RIN 3206-AM98

Federal Employees' Group Life Insurance Program: Excepted Service and Pathways Programs

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This action amends the rule to reflect that excepted service employees hired under the internship program known as the Pathways Programs may elect to enroll in Federal Employee's Group Life Insurance (FEGLI), if applicable Federal requirements are met. This action is necessary due to the omission of technical changes to OPM's final rule, *Excepted Service, Career and Career-Conditional Employment, and Pathways Programs*, issued on May 11, 2012, which concerns the excepted service internship programs. The effect of this action is to remove a barrier to recruiting students and recent graduates to help the Federal Government better compete with all employers when it comes to hiring qualified applicants for entry-level positions.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ronald Brown, Policy Analyst, (202) 606-0004, or by e-mail to Ronald.Brown@opm.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 2010, Executive Order (E.O.) 13562 was signed and established the Internship Program and the Recent Graduates Program, which, along with the Presidential Management Fellows Program, as modified therein, became the Pathways Programs. As directed by the President, the Pathways Programs provides clear paths to Federal internships and potential careers in Government for students and recent graduates. The E.O. also created the Schedule D authority that supports the Pathways Programs by authorizing exceptions to the competitive hiring rules. Under the Schedule D authority, agencies are able, under OPM's guidance, to use excepted service hiring to fill positions from among a particular class of eligible individuals—students and recent graduates.

II. Discussion of final rule

This final rule updates the FEGLI regulation to change the name of the internship programs under FEGLI rules and provides that employees hired under the Pathways Programs authority may elect to enroll for coverage in FEGLI, if applicable Federal requirements are met. This change was omitted in the OPM final rule (77 FR 28194) issued in 2012 concerning the excepted service internship programs. However, this final rule does not establish new enrollment eligibility for any Pathways Programs interns.

Agencies should continue to refer to the supplementary information published in the aforementioned final rule and the guidance that is on the OPM website at:

<http://www.opm.gov/policy-data-oversight/hiring-authorities/students-recent-graduates/>.

Analysis of and Responses to Public Comments

We received one comment on the interim final rule relating to agency guidance materials. The sole commenter asked if OPM will issue new guidance to Federal agencies concerning the changed scheduling authority for Pathways Programs participants. In response to the comment, OPM will not issue guidance to Federal agencies based on the changed scheduling authority. The OPM amends this rule to reflect technical changes concerning Pathways Program interns to conform with the final Pathways rule published on May 11, 2012 (77 FR 28194). The technical changes are necessary to reflect that the schedule appointment authority for Pathways Programs interns changed to Schedule D. Lastly, the intern programs were renamed and we needed to change the name in the regulation. See § 870.302(b)(2).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Public Law 96-354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a widerange of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. I certify that this regulation will not have a significant economic impact on a substantial number of small

entities because the regulation only affects life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

List of Subjects in 5 CFR Parts 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director

Accordingly, OPM is amending 5 CFR part 870 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104-134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251, and section 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106-522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110-279, 122 Stat. 2604. Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110-177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104-106, 110 Stat. 521.

Subpart C--Eligibility

2. Revise § 870.302(b)(2) to read as follows:

§ 870.302 Exclusions.

* * * * *

(b) * * *

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods at intervals, or who is expected to work less than 6 months in each year. Exception: an employee who receives an appointment of at least 1 year's duration as an Intern under § 213.3402 of this chapter, entitled “*Entire executive civil service; Pathways Programs*,” and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

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